

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT
COUNTY OF OGLE

FILED
MAY 30 2017
KIMBERLY A. BULL
CLERK OF THE CIRCUIT COURT
OGLE COUNTY

PEOPLE OF THE STATE OF ILLINOIS,)
)
Plaintiff,)
)
vs.)
)
)
MARC W. MONGAN,)
)
Defendant.)

No. 2016-CV-52
2016-CV-53

COPY

PEOPLE'S ANSWER AND MOTION TO DISMISS SUPPLEMENTAL MOTION TO APPOINT SPECIAL PROSECUTOR OR IN THE ALTERNATIVE FOR JUDGMENT ON THE PLEADING PURSUANT TO 55 ILCS 5/3-9008(a-10)

NOW COME the People of the State of Illinois, by and through Ogle County State's Attorney Eric Morrow and for the PEOPLE'S ANSWER AND MOTION TO DISMISS SUPPLEMENTAL MOTION TO APPOINT SPECIAL PROSECUTOR OR IN THE ALTERNATIVE FOR JUDGMENT ON THE PLEADING PURSUANT TO 55 ILCS 5/3-9008(a-10) state as follows:

1. On April 25, 2017, David and Robin Swaziek, through their attorney Cynthia Koroll, Koroll Litigation Group, Ltd. filed a Motion to Appoint Special Prosecutor Pursuant to 55 ILCS 5/3-9008(a-10). On that same day an order was entered granting Attorney Koroll 21-days to file any amendments or other pleadings.
2. On May 26, 2017, Attorney Koroll filed a Supplemental Motion to Appoint Special Prosecutors Pursuant to 55 ILCS 5/3-9008(a-10) (hereinafter "Supplemental Motion").
3. The Supplemental Motion filed by Attorney Koroll is filled with speculation, innuendo

and allegations which are not supported by facts or the relevant law.

4. The allegations in the Supplemental Motion are not verified.
5. Pursuant to 55 ILCS 5/3-9008(a-10) after a petition for a special prosecutor is filed "[t]he Court shall consider the petition, any documents filed in response, and if necessary, grant a hearing to determine whether the State's Attorney has an actual conflict of interest in the proceeding." (Emphasis added)
6. Based upon the documents filed herein it is not necessary for the Court to grant a hearing and the Court can determine that State's Attorney Morrow has no actual conflict of interest in the proceeding.

Allegations of Obstruction of Justice
(Paragraphs 20-28 of the Supplemental Motion)

7. Pursuant to 725 ILCS 5/108-3 (West 2017), a search warrant may be issued by any judge "upon written complaint of any person under oath or affirmation which states facts sufficient to show probable cause and which particularly describes the place or person , or both, to be searched and the things to be seized..." (Emphasis added)
8. The request for a search warrant requires that three documents be prepared for review by a judge. These documents are a complaint, affidavit and search warrant.
9. The general procedure in Ogle County is that the investigating officer prepares the complaint, affidavit and search warrant. The State's Attorney's office is then contacted to review the documents for their legal sufficiency and to facilitate contact with the on call judge for review and possible approval of a search warrant.
10. There is no statutory requirement that the State's Attorney have any involvement in the

request for a search warrant.

11. The State's Attorney neither prepares nor signs search warrant documents. The role of the prosecutor is to give legal advice. In fact, verification of documents in this manner by prosecutors could lead to legal liability on the part of the prosecutor as it changes the prosecutor's role from attorney to witness.
12. The State's Attorney does not have the power or authority to grant or deny search warrants. This authority is solely vested with the judiciary.
13. On June 24, 2016 at approximately 8:30 p.m. a boat crash occurred on the Rock River in Ogle County in which the Defendant, Marc Mongan, was the operator of one of the boats involved and the Victim, Megan Wells, was killed.
14. On June 24, 2016 at approximately 8:33 p.m. Conservation Police Officer Steve Beltran was dispatched to investigate this crash. (See Exhibit E of the Supplemental Motion).
15. On June 24, 2016 at approximately 9:45 p.m. CPO Steve Beltran arrived at the scene and began his investigation. (See Exhibit E of the Supplemental Motion).
16. On June 24, 2016 at 10:15 p.m. Ogle County Sheriff Brian VanVickle notified State's Attorney Eric Morrow that there was a serious boat crash on the Rock River involving serious injuries and a possible death. Sheriff VanVickle also advised that Conservation Police Officer Steve Beltran would be handling the investigation. State's Attorney Morrow advised Sheriff VanVickle that he would be available to assist with the investigation including the review of a request for search warrant if necessary. (See Exhibit 1 attached hereto).
17. On June 24, 2016, at 11:18 p.m., the Defendant refused to submit to chemical testing.

(See Exhibit 2 attached hereto)

18. On June 24, 2016, at 11:36 p.m., after receiving no communication from CPO Beltran, State's Attorney Morrow sent a text message to CPO Beltran which stated "Let me know if you need anything." (See Exhibit 3 attached hereto).
19. On June 25, 2016, at 12:12 a.m., CPO Beltran called State's Attorney Morrow from Sheriff VanVickle's cell phone. This was the first communication State's Attorney Morrow received from CPO Beltran during this investigation. (See Exhibit 1 attached hereto).
20. Although recollections of the details of the content of the phone conversation between CPO Beltran and State's Attorney Morrow apparently differ, the issue of a possible search warrant was discussed. Regardless of which party initiated the conversation or broached the subject of a search warrant, State's Attorney Morrow expressed his concern that the boat crash had occurred nearly four hours prior to his conversation with CPO Beltran. Based upon previous experience, which included, at that time, prosecuting and defending driving under the influence cases for nearly 16 years, it was known to State's Attorney Morrow that alcohol is eliminated from the body over the passage of time. According to American Prosecutors Research Institute: Alcohol Toxicology for Prosecutors the average rate of elimination is between 0.015 to 0.018% per hour. As stated in the paragraphs above, in order for a search warrant to be requested from a judge, it is necessary for the investigator to prepare a complaint, with supporting affidavit, along with the search warrant. Despite the fact that the refusal of chemical testing occurred at 11:18 p.m. the preparation of the required documents had not been commenced at the

time of the CPO Beltran's call to State's Attorney Morrow. In order to effectuate the search warrant, after the preparation of the required documents, it would then have been necessary to contact a Judge for review and possible issuance of the search warrant. If the search warrant was issued by the Judge, it would then have been necessary for the officer to transport the Defendant to a hospital for the execution of the Search Warrant if the hospital would comply. A conservative estimate of the additional time required for the investigating officer to prepare the necessary documents, present the documents to the Judge and transport the Defendant to the hospital would have been 1 ½ to 2 hours which would have put the blood draw at 5 ½ to 6 hours after the incident occurred.

21. State's Attorney Morrow discussed with CPO Beltran, a recent crash investigation known the State's Attorney Morrow, in which a delay blood testing led to results of a blood alcohol concentration of 0.00 in a case in which it was known that the suspect had been consuming alcohol prior to crash.
22. It was also discussed that the delay in the instant case could lead to chemical test results which would not be helpful to the case based upon the passage of time.
23. CPO Beltran indicated that the Defendant had completed field sobriety testing and that he believed that his observations of the Defendant's performance was strong evidence of the Defendant's intoxication.
24. A search warrant and the other necessary documents for chemical testing were not prepared by the investigating officer or presented to a judge in this investigation.
25. The night of the crash, the Defendant was charged, by citations issued by CPO Beltran, with the misdemeanor offenses of Reckless Operation and Operation of a Watercraft

Under the Influence of Alcohol.

26. The decision regarding the possible filing of felony charges was deferred pending the completion of the investigation. This is not an unusual occurrence regarding possible Driving/Operating Under the Influence cases involving a death. Generally, prior to the filing of felony charges or the presentation of a felony case to the Grand Jury, it is best practice for the investigation to be fully completed to build the strongest case possible and avoid possible speedy trial issues. This is especially true if the suspect has ties to the community and does not appear to be a flight risk. See, for examples, the following Ogle County traffic cases which involved fatalities:

People vs. Larry Messenger, 99-CF-251

- Offense date 8/3/99/Felony indictment returned 11/18/99

People vs. Gary Dowding, 05-CF-163

- Offense date 9/22/05/Felony information filed 11/3/05

People vs. Erik Steffins, 13-CF-222

- Offense date 6/19/13/Felony information filed 11/8/13

People vs. Jason Wagner, 14-CF-119

- Offense date 12/9/13/Felony information filed 6/20/14

27. In this case it was clear that the Defendant was a resident of Ogle county and was most likely not a flight risk.
28. The initial results of the investigation were presented to the Ogle County State's Attorney's office. At the request of the State's Attorney's office CPO Beltran conducted additional follow up investigation which included the preparation of search warrants for the Defendant's boat motor and cellular telephone. These search warrants were executed and the returns were made part of the investigation.
29. In December 2016, the matter was presented to the Ogle County Grand Jury for

consideration of the felony charges of Felony Operation of a Watercraft Under the Influence of Alcohol and Aggravated Reckless Operation of a Watercraft. The Ogle County Grand Jury found that there was no probable cause to proceed with felony charges in this matter. (See Exhibit 4 attached hereto.)

Family Relationships
(Paragraphs 29-33 of the Supplemental Motion)

30. State's Attorney Morrow and the defendant do not have a relationship which would present a conflict in this matter. State's Attorney Morrow and the Defendant are not friends. They do not socialize together and have never visited each other's homes or property to socialize.
31. It is also alleged that a conflict somehow exists because the husband of the Defendant's step-daughter is a member of a family that supported State's Attorney Morrow's campaign for State's Attorney. There is no factual basis to support the allegation that a conflict of interest exists because members of the Defendant's extended family are related to individuals who supported State's Attorney Morrow's campaign in 2013-2014.
32. It appears to be alleged that a conflict of interest exists because, during his previous time as a private attorney, State's Attorney Morrow represented members of the Defendant's family. It is assumed that the allegations in this regard are related to previous representation of Scott Mongan and William Mongan. Court records indicate that prior to taking office as State's Attorney in December 2014, State's Attorney Morrow represented Scott Mongan in 2010 and 2012 and William Mongan in 2011. Scott

Mongan is the Defendant's brother and William Mongan is the Defendant's nephew. State's Attorney Morrow's prior representation of these two individuals has no connection to the prosecution of the Defendant as the Defendant had no involvement in those cases. Upon completion of representation, State's Attorney Morrow had no further contact, personally or professionally with either Scott Mongan or William Mongan.

Serenity Hospice Affiliation/County Contracts
(Paragraphs 34-41 of the Supplemental Motion)

33. State's Attorney Morrow is member of the Serenity Hospice and Home Foundation. Serenity Hospice and Home is a not for profit corporation which provides both community and inpatient hospice services for patients in Ogle County and the surrounding area. The Foundation is a 501(c)(3) organization which provides support to Serenity Hospice and Home. All board members are unpaid volunteers and have no financial interest in the organization. Likewise, State's Attorney Morrow receives no financial benefit from his service to the Serenity Hospice and Home Foundation.
34. It is alleges that a conflict exists because the Defendant's business has a contract with Serenity Hospice and Home. State's Attorney Morrow is not involved in the day-to-day operations of Serenity Hospice and Home and has no knowledge or oversight of its contracts with vendors.
35. Prior to service on the Foundation Board, State's Attorney Morrow served on the Board of the Ogle County Hospice Association which was the predecessor to Serenity Hospice and Home. State's Attorney Morrow has no recollection of any involvement with

contracts related to the Defendant's business.

36. Assuming, arguendo, that State's Attorney Morrow was a "party to decision making that would have awarded hospice contracts to Marc Mongan's company" Attorney Karoll has failed to allege how an "obvious bias and conflict" is created. There is not indication in the Supplemental Motion indicating how the award of a contract to the Defendant many years prior to the Defendant's prosecution creates a conflict in the prosecution.
37. It is also alleged that a donation by the Defendant's business to Serenity Hospice and Home creates a conflict of interest. Clearly, State's Attorney Morrow did not solicit this donation. In fact, State's Attorney Morrow had no knowledge of this donation until he read about it in the local newspaper. It is clear from the newspaper article that the Defendant's employee, Charlene Loesch, designated Serenity Hospice and Home as the recipient of the donation. Attorney Karoll neglects to mention this fact in her pleadings. (See Exhibit 5 attached hereto).
38. Again, Attorney Koroll has failed to allege how the donation addressed in the above paragraph creates a conflict of interest in this situation.
39. It also seems to be alleged that since the Defendant's business has a contract with the Ogle County Jail a conflict of interest exists. State's Attorney Morrow is not involved in the day-to-day operations of the Ogle County Jail and clearly has no financial gain related to any contractual relationship which the jail may or may not have. Attorney Koroll has failed to allege how this creates a conflict of interest.
40. State's Attorney Morrow has no financial interest and receives no financial gain from

contracts which the Defendant may have with Serenity Hospice and Home.

Fraternal Organizations
(Paragraphs 42-44 of the Supplemental Motion)

41. State's Attorney Morrow is a member of both the Oregon Masonic Lodge and Tebala Shrine. However, State's Attorney Morrow has no personal knowledge as to the Defendant's membership or lack of membership in these organizations. State's Attorney Morrow does not have access to the membership rolls of either the Oregon Lodge or Tebala Shrine, but believes that the membership of Oregon Lodge is in excess of 90 members and the membership of Tebala Shrine is over 800. Members have varying levels of involvement and attendance at meetings.
42. State's Attorney Morrow does not recall ever seeing the Defendant at meetings, of either Oregon Masonic Lodge or Tebala Shrine.
43. It should be noted that Defendant's Attorney, David Tess, has been quoted in the Rockford Register Star stating that the Defendant is not a member of the Oregon Masonic Lodge, but is a member of the Tebala Shrine. Mr. Tess is further quoted as saying that the Defendant has not attended a meeting of the Tebala Shrine within the last three years. (See Exhibit 6 attached hereto).
44. Assuming, for the sake of argument, that the Defendant is a Mason and Shriner. This creates no conflict of interest. Upon assuming office as State's Attorney, State's Attorney Morrow took the following oath:

I do solemnly swear, that I will support the constitution of the United States and the constitution of the State of Illinois, and that I will faithfully discharge the

duties of the office of the State's Attorney according to the best of my ability.

45. Attorney Koroll has failed to allege how any membership in any fraternal organization creates a conflict of interest which warrants the appointment of a special prosecutor.

Friendship with Officer Beltran
(Paragraphs 45-46 of the Supplemental Motion)

46. Although State's Attorney Morrow is familiar with CPO Beltran, he and CPO Beltran do not share a personal friendship. Beltran and Morrow do not socialize and do not visit each other's homes or have communication outside of a professional setting.
47. Assuming, arguendo, that State's Attorney Morrow and CPO Beltran are personal friends. Attorney Koroll has failed to allege how the basis for her contention that the Defense could use this fact for impeachment purposes.

Witness in Wrongful Death Case
(Paragraphs 47 of the Supplemental Motion)

48. As addressed in the previous section entitled "Allegations of Obstruction of Justice", the State's Attorney is without authority to authorize or deny a search warrant.
49. Attorney Koroll has failed to allege the basis for her contention that State's Attorney Morrow would be potential witness in the "Wrongful Death Suit." State's Attorney Morrow made no observations of the Defendant on the night in question and has no independent knowledge of the events as they relate to the Defendant's actions.
50. Assuming, arguendo, that State's Attorney Morrow was a potential witness in the "Wrongful Death Suit", Attorney Koroll has failed to allege how that fact would "create a

further conflict" which necessitates a special prosecutor.

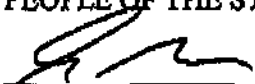
WHEREFORE the People of the State of Illinois request that the Court consider the petition and any documents filed in response and enter an granting the following relief:

- A. Finding that it is not necessary for the Court to Grant a hearing herein and DENYING the request of David and Robin Swazick to have a hearing on this matter.
- B. DISMISSING the Supplemental Motion for a Special Prosecutor.
- C. Finding that State's Attorney Eric Morrow does not have a conflict of interest herein.
- D. DENYING the request for a special prosecutor in the prosecution of the Defendant Marc Mongan
- E. DENYING the request for a special prosecutor to investigate and proceed against State's Attorney Eric Morrow.
- F. In the event that the Court determines that a hearing is necessary, granting a continuance to another date, to allow the State's Attorney of Ogle County to engage counsel to represent him in a hearing in this matter.

G. Granting such other further relief as the Court deems equitable and just.

Respectfully submitted,


PEOPLE OF THE STATE OF ILLINOIS

By: 
Eric Morrow
Ogle County State's Attorney

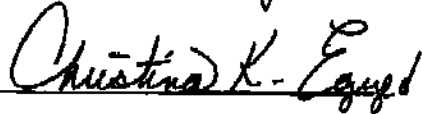
Verification

State of Illinois)
)
)
County of Ogle)

I, Eric Morrow, being sworn depose and say: I am the State's Attorney of Ogle County in the above-entitled cause. I am authorized to make this affidavit. I have read the above PEOPLE'S ANSWER AND MOTION TO DISMISS SUPPLEMENTAL MOTION TO APPOINT SPECIAL PROSECUTOR OR IN THE ALTERNATIVE FOR JUDGMENT ON THE PLEADING PURSUANT TO 55 ILCS 5/3-9008(a-10) and have knowledge of the facts stated. The matters stated are true in substance and in fact, except those matters that are stated to be on information and belief, and as to those matters I believe them to be true.


Eric Morrow

Subscribed and sworn before me this
30th day of May, 2017.





Eric D. Morrow
Ogle County State's Attorney
106 S. 5th Street
Suite 110
Oregon, Illinois 61061
Phone: (815)732-1170
Fax: (815)732-6607

Invoice Number Account Number Date Due Page
Past Due 101 of 180

Detail for Eric Morrow State's Atty: 815-877-

Voice, continued

Date Time

6/22 8:10A

6/22 8:28A

6/24 8:14P

6/26 10:15A

6/26 10:15A 815-877- 3 101 101

6/26 10:15A

6/26 10:15A 815-877- 3 101 101

6/27 4:45P

6/28 8:35A

6/28 10:40A

6/28 3:05P

6/30 8:11P

6/30 8:48P

7/01 12:28P

7/01 1:18P

7/02 8:40P

7/02 8:57P

7/02 9:40P

7/02 9:41P

7/03 10:28A

7/03 11:08A

7/05 1:08P

7/06 12:18P

7/06 7:18P

7/07 8:28A

7/07 9:20P

7/07 9:27P

7/09 4:00P

7/10 3:04P

7/10 8:00P

7/10 8:00P

7/13 4:30P

7/14 8:28A

7/14 8:30A

7/14 10:18A

7/14 10:28A

7/18 8:22P

7/17 10:28A

7/18 7:17A

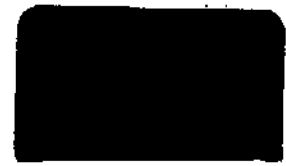
7/18 8:45A

7/18 10:27A

7/18 12:30P

7/18 12:30P

7/18 4:18P



WARNING TO MOTORIST

TRAFFIC CITATION NO. 569836J

ACCIDENT REPORT NO. 2016-T-364-005B

DATE OF ACCIDENT 06-24-16

Subsequent to your involvement in a crash involving a Type A injury (including severely bleeding wounds, distorted extremities and injuries requiring the injured party to be carried from the scene) that requires immediate professional attention in either a doctor's office or a medical facility, or a fatality as evidenced by:

- 1) the issuance of a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or similar provisions of a local ordinance, with the exception of equipment violations contained in Chapter 12 of this Code or similar provisions of local ordinances and pursuant to Section 11-501.6 of the Illinois Vehicle Code; or
- 2) the issuance of a uniform citation for a violation of the Boat Registration and Safety Act or a similar provision of a local ordinance, with the exception of equipment violations contained in Article IV of the Boat Registration and Safety Act or similar provisions of local ordinances and pursuant to Section 1-16C of the Boat Registration and Safety Act;

You are hereby notified and warned that:

As provided in Section 11-500 of the Illinois Vehicle Code, you are a first offender unless within the last five years of this arrest you have had:

- A previous conviction or court-assigned supervision for DUI or a similar provision of a local ordinance; or
- A conviction in any other state for DUI or a similar offense where the cause of action is the same or substantially similar to the Illinois Vehicle Code; or
- A driver's license suspension/revocation for violating Section 11-501.1 of the Illinois Vehicle Code, except in cases where you submitted to a chemical test(s) disclosing an alcohol concentration of .08 or more, or any amount of a drug, substance or intoxicating compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act; a controlled substance as listed in the Illinois Controlled Substances Act; an intoxicating compound as listed in the Use of Intoxicating Compounds Act; or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, and were subsequently found not guilty of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance.

Considering the above, you are warned:

- 1. If you refuse to submit to or fail to complete all chemical tests requested and:
 - If you are a first offender, your driving privileges will be suspended for a minimum of 12 months; or
 - If you are not a first offender, your driving privileges will be suspended for a minimum of 3 years.
- 2. If you submit to a chemical test(s) disclosing an alcohol concentration of .08 or more, or any amount of a drug, substance or intoxicating compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act; a controlled substance as listed in the Illinois Controlled Substances Act; an intoxicating compound as listed in the Use of Intoxicating Compounds Act; or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, and:
 - If you are a first offender, your driving privileges will be suspended for a minimum of 6 months; or
 - If you are not a first offender, your driving privileges will be suspended for a minimum of 1 year.

You are further warned that if you are a Commercial Driver's License (CDL) holder, your CDL privileges will be disqualified for the following time period if you refuse to submit to or fail to complete all chemical tests requested, or submit to a chemical test(s) disclosing an alcohol concentration of .08 or more, or any amount of a drug, substance or intoxicating compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act; a controlled substance as listed in the Illinois Controlled Substances Act; an intoxicating compound as listed in the Use of Intoxicating Compounds Act; or methamphetamine as listed in the Methamphetamine Control and Community Protection Act:

- If you have not had a prior 12-month disqualification of CDL privileges, your CDL privileges will be disqualified for 12 months; or
- If you have had a prior 12-month disqualification of CDE privileges, your CDL privileges will be disqualified for life.

Warning Issued To MARC W. MORGAN Driver's License Number MS25-5597-0138

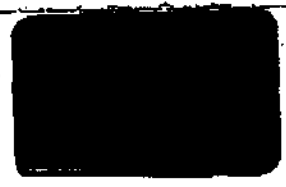
Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

Signature of Arresting Officer CPD [Signature] ID Number 364

Law Enforcement Agency ILL. CONSERVATION POLICE Address INDIANA RESOURCES WAY, SPRINGFIELD IL 62707

Date of Warning JUNE 11, 24, 27 2016 Time of Warning 10:55

X [Signature] POLICE OFFICER - RETAIN



SWORN REPORT

TRAFFIC CITATION NO. 569 8365	ACCIDENT REPORT NO. 2016-1-364-0050
DATE OF ACCIDENT 06-24-16	

Name MORGAN MARL W
Last First Middle

CDL Holder Driver's License Number M 5 2 5 5 5 9 7 0 1 3 8 State IL

Street Address 3010 N. RIVER ROAD City and County of Arrest Ogle County
 City & State OREGON IL 61061 Arrest Date 06 24 16 Time 1015
 Sex M Date of Birth 5/14/70 Place of Refusal or Location of Test(s) Ogle County Jail
 Notices of Summary Suspension Given On 06 24 16 Refusal or Test Date 06 24 16 Time 11:18

The suspension shall take effect on the 46th day following the notice date of the suspension. Because of your involvement in a personal injury (Type A) or fatal motor vehicle or motorboat accident, and

- 1) by the issuance of a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance, with the exception of equipment violations contained in Chapter 12 of the Code, or similar provisions of local ordinances and pursuant to Section 11-501.6 of the Illinois Vehicle Code; or
- 2) by the issuance of a uniform citation for a violation of the Boat Registration and Safety Act or a similar provision of a local ordinance, with the exception of equipment violations contained in Article IV of the Boat Registration and Safety Act or similar provisions of local ordinances and pursuant to Section 5-16C of the Boat Registration and Safety Act;

You are hereby notified that on the date shown above you were asked to submit to a chemical test(s) to determine the alcohol, other drug(s) or intoxicating compound(s), or any combination thereof, content of your breath, blood, or urine and warned of the consequences:

- Because you refused to submit to or failed to complete testing, your driver's license and/or privileges will be suspended for a minimum of 12 months.*
- Because you submitted to testing which disclosed:
 - an alcohol concentration of _____, which is .08 or more; or
 - any amount of a drug, substance or intoxicating compound in your blood or urine resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act; a controlled substance as listed in the Illinois Controlled Substances Act; an intoxicating compound as listed in the Use of Intoxicating Compounds Act; or methamphetamine as listed in the Methamphetamine Control and Community Protection Act;
 your driving privileges will be suspended for a minimum of 6 months.*

*NOTE: If it is determined that you are not a "first offender," as defined in Section 11-900 of the Illinois Vehicle Code, and:

- You refused to submit to or failed to complete all requested chemical tests, the period of suspension will be a minimum of 3 years; or
- You submitted to chemical testing that disclosed an alcohol concentration of .08 or more, or any amount of a drug, substance or intoxicating compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act; a controlled substance as listed in the Illinois Controlled Substances Act; an intoxicating compound as listed in the Use of Intoxicating Compounds Act; or methamphetamine as listed in the Methamphetamine Control and Community Protection Act; the period of suspension will be a minimum of 1 year.

- I have complied with Section 11-501.6 of the Illinois Vehicle Code by issuing a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance, with the exception of equipment violations contained in Chapter 12 of the Code or similar provisions of local ordinances, subsequent to a personal injury (Type A) or fatal motor vehicle accident; OR
- I have complied with Section 5-16C of the Boat Registration and Safety Act by issuing a uniform citation for a violation of the Boat Registration and Safety Act or a similar provision of a local ordinance, with the exception of equipment violations contained in Article IV of the Boat Registration and Safety Act or similar provisions of local ordinances, subsequent to a personal injury (Type A) or fatal motorboat accident.

RED WINE OPERATING A BOAT, RED BLOODSHOT EYES, SLURRED SPEECH, FAILED FIELD SOBRIETY, CONSUMED ALCOHOL.

- Pursuant to Section 11-501.6 of the Illinois Vehicle Code or Section 5-16C of the Boat Registration and Safety Act I have:
- Served immediate notice of suspension of driving privileges on the above-named person; or
 - Given notice of suspension of driving privileges to the above-named person by depositing in the U.S. mail said notice in a prepaid postage envelope addressed to said person at the address shown on the Uniform Traffic Ticket (in a motor vehicle accident) or the address shown on the uniform citation (in a motorboat accident).

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

Signature of Arresting Officer [Signature] ID Number 364
 Law Enforcement Agency ILLINOIS DEPARTMENT OF NATURAL RESOURCES Date 06 24 16
Month Day Year

**Intox EC/IR-II
Subject Test**

OGLE
COUNTY
SHERIFF'S OFFICE
Serial Number: 012005
Test Number: 1613
Test Date: 05/24/2015
Test Time: 23:15 CDT
Operator Name: BELTRAN
Operator ID: 364
Subject Name
MARC MONGAN
Subject D.O.B.: 05/14/1970
Subject Sex: Male
Drivers License Number
M52555970138
Drivers License State: IL
Arresting Officer: BELTRAN
Arresting Officer ID: 364
Arresting Department
IDNR
County Name: OGLE
Citation Number: 569836S
System Check: Passed

Test	g/210L	Time
BLK	.000	23:17
SUBJ	***	23:18

Test Status: Test refused
Operator Signature
Operator Signature

**Intox EC/IR-II
Scheduled
Certification**

OGLE
COUNTY
SHERIFF'S OFFICE
Serial Number: 012006
Test Number: 1588
Test Date: 06/01/2016
Test Time: 07:00 CDT
Dry Gas Target: .079
Lot Number: 3251408211
Exp Date: 12/05/2016
System Check: Passed

Test	g/210L	Time
BLK	.000	07:01
CHK	.078	07:01
BLK	.000	07:02
CHK	.077	07:03

25

Let me know if you need anything.

Eric Morrow

Jun 24, 2016

If you're in the office this afternoon I'd like to stop in and talk about the boat accident. **Steve Beltran**

Jul 3, 2016

Type: Text message
To: (815) 243-7777
Priority: Normal
Sent: Jun 24, 2016, 11:36 PM
Cause code: Addr.Vcnt., 0

remaining assistants and I will be tied up in court and appointments this am.

Could we try for 1:00 pm?

Eric Morrow

Sep 29, 2016

Yes sounds good

PEOPLE'S EXHIBIT 3

05/31/2017 14:26 Ogle Couty States Attorney

(FAX) 815 732 6607

P.022/035



ERIC D. MORROW
STATE'S ATTORNEY OF OGLE COUNTY
106 S. 5th St., Suite 110
OREGON, ILLINOIS 61061

Sender's E-mail: emorrow@oglecounty.org
www.oglecounty.org

Telephone: (815) 732-1170
Fax: (815) 732-6607

DECEMBER 19, 2016- FOR IMMEDIATE RELEASE

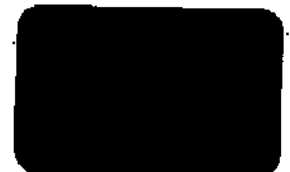
Ogle County Grand Jury Finds No Probable Cause for Felony Charges in Boat Crash

On or about June 24, 2016, in Ogle County, Marc W. Mongan, 46, of Oregon, was involved in a boat crash which resulted in the death of Megan Wells, 31, of Rockford. Mr. Mongan was subsequently arrested for the misdemeanor offenses of Operating a Watercraft Under the Influence of Alcohol and Reckless Operation of a Watercraft by Illinois Conservation Police. These charges remain pending in Ogle County Circuit Court.

After completion of the investigation, this matter was referred to the office of the Ogle County State's Attorney to be reviewed for possible felony charges. The Ogle County State's Attorney's Office reviewed the investigation and recently presented the matter to the Ogle County Grand Jury for consideration. The Grand Jury heard the sworn testimony of several witnesses, video recorded statements and other evidence. At the conclusion of this full and thorough presentation, the Ogle County Grand Jury found that there was no probable cause to proceed with the felony charges of Felony Operating a Watercraft Under the Influence of Alcohol and Aggravated Reckless Operation of a Watercraft against Marc W. Mongan. Under Illinois law, a finding of probable cause is necessary to bind a defendant over for trial on felony charges.

"We respect the decision of the Grand Jury and believe that the jurors gave thoughtful consideration to the evidence presented," Ogle County State's Attorney Eric Morrow said. "Without a finding of probable cause my office is not legally able to proceed with felony charges."

The misdemeanor charges against Mr. Mongan remain set for a status hearing on December 22, 2016 at 9:00 a.m.



County News

www.oglecountypa.com

Ogle County Newspaper, Thursday, January 12, 2017, Page A7

Coffee with Dave Jan. 19

The Mt. Morris Economic Development Group will host a free coffee with Dave event on Thursday, Jan. 19 at 11:00 a.m. at Summit Street Community Center, 200 Simpson Lane, Mt. Morris.

David Duffin, director of the Center for Rural Programs Development at Ogle Valley Community College, will talk about the new steps and how-on-of

business development, and how to succeed with other small business owners. Registration was required and may be made by calling Linda Smith at 779-771-4391.

KCC registration underway

Registration for the spring semester at Kildareville College, Moline, is currently in progress. The center is located at 1100 S. 11th St., Moline, Ill. 61201. Open to support students through aKCC and can be completed at any time.

Current students who need help enrolling should call 309 by the 15th of the month. The center is located at 1100 S. 11th St., Moline, Ill. 61201. Open to support students through aKCC and can be completed at any time.

Registration for the spring semester at Kildareville College, Moline, is currently in progress. The center is located at 1100 S. 11th St., Moline, Ill. 61201. Open to support students through aKCC and can be completed at any time.

Registration for the spring semester at Kildareville College, Moline, is currently in progress. The center is located at 1100 S. 11th St., Moline, Ill. 61201. Open to support students through aKCC and can be completed at any time.

Students enrolling in-person must present a photo ID before enrolling. Enrollment services are open Monday thru 5 p.m. to 6 p.m. Tuesday through Thursday 9 a.m. to 5 p.m. and Friday from 9 a.m. to 4 p.m.

Enrollment services will also be open on Saturday, Jan. 14 from 9 a.m. to 1 p.m. in convenient locations nearby to enrolling.

Students who need to take placement testing, and contact Placement Services at 315-325-9375 to set up an appointment.

Students can register that begins to start by 11:30 p.m. on the date of registration.

Students enrolling in-person must present a photo ID before enrolling. Enrollment services are open Monday thru 5 p.m. to 6 p.m. Tuesday through Thursday 9 a.m. to 5 p.m. and Friday from 9 a.m. to 4 p.m.

Enrollment services will also be open on Saturday, Jan. 14 from 9 a.m. to 1 p.m. in convenient locations nearby to enrolling.

Students who need to take placement testing, and contact Placement Services at 315-325-9375 to set up an appointment.

Students can register that begins to start by 11:30 p.m. on the date of registration.



Donation

Steve Houghton, owner of Ogle County Floristery, and his employees donated a \$250 check recently to Specialty Hospice and Home. Houghton said the honor of honoring the charity to which the donation was made, assisting the director in Lynn Woods, left, executive director of Specialty Hospice and Home. Photo supplied.

Vegetable growers conference is scheduled

Area fruit and vegetable growers will be able to hear about current crop and pest reports and future plans for the 21st Annual Growers Fruit and Vegetable Growers Conference in Rockford.

The 21st Annual Growers Fruit and Vegetable Growers Conference will be held on Monday, Feb. 13 from 9-4 p.m. at Midway Village (5729 Glenhurst Road, Rockford, Illinois). The registration fee is \$40 per person, but the additional cost of a luncheon will be \$10. The registration fee includes a luncheon, a chair of their business, lunch, and handouts.

The 21st Annual Growers Fruit and Vegetable Growers Conference will be held on Monday, Feb. 13 from 9-4 p.m. at Midway Village (5729 Glenhurst Road, Rockford, Illinois). The registration fee is \$40 per person, but the additional cost of a luncheon will be \$10. The registration fee includes a luncheon, a chair of their business, lunch, and handouts.

Meetings Canceled

The regular meeting of the Ogle County Board of Supervisors was canceled for Thursday, Jan. 19 but has been rescheduled.

The next meeting is scheduled for Thursday, Feb. 23 at 6 p.m. in the 1st floor conference room 100 at the Ogle County Courthouse, 100 S. 11th St., Moline.

The next meeting is scheduled for Thursday, Feb. 23 at 6 p.m. in the 1st floor conference room 100 at the Ogle County Courthouse, 100 S. 11th St., Moline.

Thanks for help with toy drive

The reason for their first success is an open society to their supporters and other agencies that all departments can help. We are happy that our toys are high enough and that just might have done the trick. Check with your local departments when they are looking for toys. One of the local departments is the Law Enforcement Department. It is going to be Feb. 4 at the Ogle Valley Campus (currently in session). The toys will be from 10 a.m. to 5 p.m. and you can get possible items with proceeds, money, eggs, food, books, supplies, and more. Highlighted and supporting your community help us greatly. If you have any questions about their local food other items, your local department for when and

Public Voice

where you wish for items that will be printed and in the paper. Our fire department and ambulance are a important part of our community with long drive when help is needed. Thank you for the help these. Newspaper. News. News. News.

Goodfellows say thank you

The Mt. Morris Goodfellows would like to thank the many individuals, organizations, institutions and clubs in support of their efforts to help drive in our community who are in need by making a donation. It is the greatest support of our community that offers the work of the Goodfellows in our area. This letter means we are able to reach the lives of 150 families. Thank you for making this possible. Best wishes to 2017 from the Mt. Morris Goodfellows.

Lions thank community

The Harvest Lions Club would like to thank everyone who donated food to the club's food drive this Christmas. We also thank the Leo Club for the big amount of food they provided for our food drive. We thank and delivered 66

Support local fire department fundraisers

Highlighting and supporting your community help us greatly. If you have any questions about their local food other items, your local department for when and

Support local fire department fundraisers

Highlighting and supporting your community help us greatly. If you have any questions about their local food other items, your local department for when and

Sheffer's Town & Country Tractors, Inc.

We can now supply you with these name brand parts!

Farm King Power King Allis

320 Palmyra Rd., Dixon • 815-284-3226

Service Directory

<p>Public Auction Service Lylo and Sheryl Hopkins</p> <p>1100 S. 11th St., Moline, IL 61201</p> <p>315-325-9375</p>	<p>Nordman Excavating, Inc.</p> <p>1431 Rt. 84 E. Oregon, IL 61061</p> <p>Your Complete Earth Moving Contractor</p>	<p>TRIVY BAG</p> <p>Complete services Full-Body Bag for those items you don't want to lose. Durable and sturdy. Customized. Great Price.</p> <p>201 W. Green St. P.O. Box 1000 Franklin, IL 61741</p> <p>Call: 815-488-8881 Fax: 815-488-8882</p>
<p>Juanette Hershman, CPA Member National Association of Accountants</p> <p>Certified Financial Consultant</p> <p>Accounting and Tax Services for Businesses and Individuals</p> <p>132 W. Second St., Suite 1 • Dixon, IL 815-284-8188</p>	<p>Summers Plumbing & Heating</p> <p>1202 E. Woodland Rd. P.O. Box 2000 Dixon, IL 61010</p> <ul style="list-style-type: none"> • Heating • Cooling • Water Softeners • Gas & Electric • Water Heaters <p>6082-00104 Craig Summers</p>	<p>HOOVER</p> <p>732-4710</p> <p>Complete Home Care</p> <ul style="list-style-type: none"> • Carpet & Upholstery Cleaning • Hardwood Floor Refinishing • 24 Hour Emergency Service <p>CHUCK HOOVER 101 S. 11th St., Moline, IL 61201</p>

rrstar.com

Megan Wells' death on the Rock River prompts legal battle

Wednesday

Posted May 24, 2017 at 10:54 AM

Updated May 26, 2017 at 10:15 AM

By Susan Vela

Staff writer

[Follow](#)

Editor's Note: This story has been edited to properly identify the camper who said he helped pull Wells from the water.

She and her grandfather — or “Papa” as she called him — would strike out from Martin Memorial Park, and a smile would light up her face as her grandfather’s pontoon boat skimmed the Rock River.

“She always looked for any opportunity she could to be able to get out on the river,” her father, Dave Swaziek, said.

Wells’ love for the water led to her death on June 24, when she was thrown from her uncle’s pontoon boat when it collided with a fishing boat on the Rock River a few miles north of Oregon in Ogle County. She was 31 and the mother of three.

A grand jury determined in December that there was no probable cause to warrant felony charges against Oregon resident Marc Mongan, who was driving the other boat. But he still faces misdemeanor counts of reckless operation of a watercraft and operating a watercraft under the influence of alcohol.

Wells' parents, however, continue to seek justice for their daughter, asking for a special prosecutor in the case. In court documents, they contend that Ogle County State's Attorney Eric Morrow's ties to Mongan made it inappropriate for him to prosecute the case.

"What's going on down there is just not right," Swaziek said. "We're trying to speak for Megan right now and stand up for her. We're still fighting. We're standing up and saying this is not right. We're Megan's voice right now. What happened that evening is just not right."

Morrow denies any conflict of interest.

"If there was a conflict of interest, I would have asked for a special prosecutor myself," he said.

The Swazieks have hired Rockford attorney Cynthia Koroll, who said she was "very, very surprised that this was not charged as a felony" because of evidence that included beer cans.

Wells was in her uncle David Daily's pontoon, along with two others, when the crash happened. Mongan's passenger was another Oregon resident.

"Mongan's boat has 24 empty beer cans and 14 unopened beer cans," the Illinois Conservation Police field report says. "(Wells' uncle's) boat had seven empty beer cans and one empty beer bottle.

"They went out on the river and searched for Wells and after approximately six to eight minutes found her floating face down in the river. (A camper) entered the water and swam to her. He then turned her over so her face was out of the water.

"Observation on the boat show physical evidence that ... Mongan was traveling at a rate of speed fast enough to propel the vessel over the top of the pontoon boat. During this event, Mongan's boat struck Wells, resulting in her death and ejecting her into the water."

Mongan declined to comment for this story. But his attorney's motion to dismiss states that the only grounds for probable cause would have been intoxication and recklessness.

If the grand jury passed on probable cause for felony charges, "there can be no probable cause for the misdemeanor offenses," the motion reads.

"First of all, everyone involved including the Mongan family regrets the tragic loss of life that resulted from this horrific accident," said Mongan's attorney, David Tess of Rochelle. "(But) it was just that, an accident. Mr. Mongan and a friend were fishing and there's no evidence there was any criminal activity."

He rejects the Swazieks' claims that Mongan and Morrow have ties that would jeopardize a fair trial.

The Swazieks allege that Mongan and Morrow are members of the Oregon Masonic Lodge, a claim that Tess said is untrue. They also say Mongan and Morrow are both members of the Tebala Shriners, an assertion to which Tess responded that "there are about 800 to 1,000 Shriners in Northern Illinois (and) Mr. Mongan hasn't even been to a Shriners meeting in three years."

15th Circuit Judge John C. Redington could decide on Mongan's motion to dismiss at a 9 a.m. June 13 hearing.

Wells' mother, Robin Swaziek, still cries when talking about her daughter's death. Her daughter loved the outdoors and fishing, her children and the Green Bay Packers.

Like her husband, she has a difficult time dealing with court documents and police reports that could determine Mongan's fate.

"What about him still running his boat up on top of my brother's boat and actually making contact with our daughter and killing her?" she asked. "Isn't that reckless?"

David Daily's pontoon boat was impounded after the crash. His Ogle County campground reminds him of his niece.

"She was just a joy to be around," he said. "She was one of those girls that just kind of lit up a room. She just liked being out there, being in the sun."

Susan Vela: 815-987-1392; svela@rrstar.com; [@susanvela](https://www.instagram.com/susanvela)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT
COUNTY OF OGLE

FILED
MAY 30 2017

Kimberly A. Hall
CLERK OF THE CIRCUIT COURT
OGLE COUNTY

PEOPLE OF THE STATE OF ILLINOIS,)
)
Plaintiff,)
)
v)
)
MARC W. MONGAN,)
)
Defendant.)

No. 2016-CV-52
2016-CV-53

COPY

**BRIEF IN SUPPORT OF PEOPLE'S ANSWER AND MOTION TO DISMISS
SUPPLEMENTAL MOTION TO APPOINT SPECIAL PROSECUTOR OR IN THE
ALTERNATIVE FOR JUDGMENT ON THE PLEADING PURSUANT TO 55 ILCS 5/3-
9008(a-10)**

NOW COME the People of the State of Illinois, by and through Ogle County State's Attorney Eric Morrow and for the BRIEF IN SUPPORT OF PEOPLE'S ANSWER AND MOTION TO DISMISS SUPPLEMENTAL MOTION TO APPOINT SPECIAL PROSECUTOR OR IN THE ALTERNATIVE FOR JUDGMENT ON THE PLEADING PURSUANT TO 55 ILCS 5/3-9008(a-10) state as follows:

Introduction

The office of State's Attorney in Illinois is a constitutional in nature and governed by statute. One of the duties of the State's Attorney is "[t]o commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for his county, in which the people of the State or county may be concerned." 55 ILCS 5/3-9005. "It is settled that the State's Attorney, as a member of the executive branch of government, is vested with

exclusive discretion in the initiation and management of criminal prosecution." McCall vs. Devine, 334 Ill.App 3d 192, 205 (1st Dist. 2002) quoting People vs. Novak, 163 Ill.2d 93, 113(1994) and People ex rel. Daley vs. Moran, 94 Ill.2d 41, 45-46 (1983). "Appointment of a special prosecutor, which infringes upon that exclusive discretion, will only be warranted based upon specific factual allegations of 'interest' within the meaning Section 3-9008 of the Counties Code." Id. A special prosecutor may only be appointed, on the petition of another, if the "State's Attorney has an actual conflict of interest in the cause or proceeding." 55 ILCS 5/3-9008(a-10).

Illinois courts have "consistently held that the State's Attorney is 'interested' for purposed of section 3-9008 only where he is interested as a private individual or his office is a party to the action." McCall at 199 citing People vs. Tracy, 291 Ill. App. 3d 145, 151 (1st Dist. 1997); People vs. Morley, 287 Ill.App. 3d 499, 504 (1st Dist. 1997); People vs. Dall, 207 Ill. App. 3d. 508, 530 (1st Dist. 1991); People vs. Trolja, 107 Ill. App. 3d 487, 496 (1st Dist. 1982). If the alleged conflict of interest is personal, the moving party must show either that the relationship involves significant emotional ties or the defendant suffered actual and substantial prejudice. People vs. Polonowski, 258 Ill. App. 3d. 497 (5th Dist. 1994). Where it is alleged that a conflict of interest exists based upon a personal relationship with the State's Attorney, the party alleging the conflict of interest bears the burden of proving that the State's Attorney is interested in the proceedings. People vs. Arrington, 297 Ill. App. 3d 1 (2nd Dist 1998).

There is no requirement that the court grant a hearing to the party requesting a special prosecutor. In considering a petition for special prosecutor the court "shall consider the petition,

any documents filed in response, and if necessary, grant a hearing to determine whether the State's Attorney has an actual conflict of interest in the proceeding." 55 ILCS 5/3-9008(a-10). The Court, in its discretion, may dismiss the petition without a hearing if it finds that the petitioners allegations are insufficient. See McCall vs. Devine, 334 Ill. App. 3d 192 (1st Dist. 2002) and Baxter vs. Peterlin, 156 Ill. App. 3d (3rd Dist. 1987).

Argument

Attorney Koroll, in her Supplemental Motion for a Special Prosecutor requests that a Special Prosecutor be appointed to "investigate and proceed against State's Attorney Morrow for his obstruction of justice in this case" and to prosecute the Defendant Marc Mongan. These requests have basis in neither law nor fact and should be dismissed.

Allegations of Obstruction of Justice - Morrow

Attorney Koroll has made the unsubstantiated allegation that the sitting State's Attorney of Ogle County has committed the felony offense of obstructing justice. The allegations contained in the Supplemental Motion show either ignorance or total disregard of Illinois Criminal law and procedure. Under Illinois law the State's Attorney does not have the power or authority to grant or deny search warrants. A search warrant may be issued by any judge "upon written complaint of any person under oath or affirmation which states facts sufficient to show probable cause..." 725 ILCS 5/108-3. The complaint for search warrant, affidavit and search warrant are generally prepared by the investigating officer based upon their personal knowledge.

See People vs. Mitchell, 91 Ill. App. 3d 476, 480 (1st Dist. 1980) (Recognizing that complaints for search warrants are normally drafted by non-lawyers, often in the haste of criminal investigations.) In addition, the preparation of and attestation to a request for search warrant by a prosecutor changes the prosecutor's role from that of lawyer to that of a witness. For the prosecutor to take on this role would be improper and could lead to legal liability whereby the prosecutor could lose his or her prosecutorial immunity. See Olson vs. Champaign County, 784 F. 3d 1093, 1102-1103. (7th Circuit 2015).

In addition to the legal fact that the State's Attorney does not have the authority to deny a search warrant, in this specific case there were factual issues present which indicated that a request for a search warrant, at the time it was discussed with the investigating officer, could have been counterproductive to the investigation. Attorney Koroll's argument assumes that evidence gleaned from a search warrant for the Defendant's blood on the night in question would have been helpful to the prosecution of the Defendant. The reality of the situation is that evidence garnered from a blood draw 5 ½ to 6 hours after the incident occurred would most likely have been detrimental to the prosecution of the Defendant. The factual basis to support this contention is fully set forth in the People's Answer to the Supplemental Motion. In summary, alcohol was being eliminated from the Defendant's body during the time that passed from the crash to the investigating officer's contact with the State's Attorney. The alcohol would have continued to be eliminated during the amount of time necessary for the officer to prepare search warrant documents, have them reviewed by a judge and executed. These issues have no relationship to the Defendant's identity or alleged status in the community.

There have been no facts pled by the Petitioner which would indicate that the Defendant was, in any way, given preferential treatment by State's Attorney Morrow as compared to similar Ogle County cases. There has not been a showing that State's Attorney Morrow has an "interest" in this case which necessitates the appointment of a special prosecutor.

In summary the Attorney Koroll has failed to allege any valid basis for the appointment of a Special Prosecutor as it relates to State's Attorney Morrow and the Court should deny this request without a hearing.

Special Prosecutor - Morgan

The People have filed an Answer to the Supplemental Motion for Special Prosecutor which fully sets forth the factual answers to the Petitioner's claim. Although the People deny many of the allegations contained in the Supplemental Motion, even if, arguendo, the allegations contained in the Supplemental Motion are taken as well pled and true; they do not rise to the level of a showing that the State's Attorney of Ogle County is interested in the proceeding as required under Illinois law. Therefore, the Supplemental Motion should be dismissed without a hearing.

Family Relationships

Attorney Koroll has only pled vague allegations regarding personal relationships between the State's Attorney and the Defendant and/or his family. No allegations which have been pled, rise to the level of making State's Attorney Morrow "interested" in this case as required by law. The petitioner must allege a relationship that "involves such significant emotional ties that [the State's Attorney's] personal interests influenced the discharge of his duties." People v.

Arrington, 297 Ill. App. 3d 1,4 (2nd Dist. 1998). There is no showing of this type of relationship in this case because such a relationship between the Defendant and State's Attorney Morrow does not exist.

Attorney Koroll also seems to vaguely allege that there is some disqualifying political tie between State's Attorney Morrow and the Defendant through his extended family. Illinois law is clear that "[t]he special prosecutor statute does not require appointment of a substitute for the State's Attorney absent specific facts regarding the State's Attorney's political ties which make it improbable the prosecutor could carry out his duties in a specific case." Baxter v. Peterlin, 156 Ill. App. 3d 564, 566-567 (3rd Dist. 1987) citing People ex rel. York v. Downen, 119 Ill. App. 2d 29 (3rd Dist. 1983). The Petitioner must "plead and prove specific facts regarding the nature of the alliance as well as facts tending to show the State's Attorney would not zealously represent the People of the State of Illinois because of this alliance." Id. Again, the Petitioner has failed to make such a pleading in this case because such an alliance between State's Attorney Morrow and the Defendant does not exist.

Serenity Hospice and Home/County Contracts

As best as can be discerned, the Attorney Koroll vaguely states that a conflict of interest exists because State's Attorney Morrow is on the board of directors of The Serenity Hospice and Home Foundation and the Defendant's business is a vendor to Serenity Hospice and Home. Petitioner, however, fails to plead how this fact, if true, makes State's Attorney Morrow and "interested" party in this proceeding. Attorney Koroll only states that this "creates an obvious

bias and conflict" without explanation as to her reasoning. The alleged bias is far from obvious. State's Attorney Morrow clearly receives no financial benefit from the Defendant's status as a vendor to this charitable organization and there has been no other allegation of any other basis for a conflict of interest.

Also, it is alleged that a donation made by the Defendant to Serenity Hospice and Home is the basis for a conflict of interest on the part of State's Attorney Morrow. There are no allegations pled which would allow the Court to make a finding that a conflict exists. It should also be noted that the newspaper article cited by the Attorney Koroll indicates that the recipient of the donation was designated by the Defendant's employee. This is a fact which was omitted from Attorney Koroll's pleading.

Similarly, Attorney Koroll seems to argue that the Defendant's alleged vendor status to the Ogle County Jail creates a conflict of interest. Again, there is no basis for this allegation pled. If this argument is followed to its ridiculous logical conclusion, State's Attorney Morrow would have conflicts with the prosecution of any vendor that provides goods or services to Ogle County.

Fraternal Organizations

Attorney Karoll seems to alleges, on information and belief, that the Defendant and State's Attorney Morrow are members of two fraternal organizations in common. She provides no factual basis for this allegation. Assuming, arguendo, that these allegations are true there have been no allegations pled as to how this creates a conflict which makes State's Attorney Morrow interested in this litigation. Again, when this argument is taken to its ridiculous logical

conclusion, a State's Attorney who is a member of the Kiwanis club would be barred from prosecuting other Kiwanis, a State's Attorney in the Rotary club would be barred from prosecuting other Rotarians and a State's Attorney who was Catholic would be barred from prosecuting other Catholics. This argument obviously leads to absurd results and is not what is contemplated by the special prosecutor statute.

Friendship with Officer Beltran

There has been no legal basis provided by the Petitioner that an alleged friendship between a prosecutor and a witness/police officer can be used by the defense for impeachment purposes. Further, it is unclear how Attorney Koroll believes that this would be grounds for a conflict of interest which would necessitate a special prosecutor.

Witness in Wrongful Death Case

There has been no legal or factual basis provided by the Petitioner that would make State's Attorney Morrow a witness in any wrongful death case. State's Attorney Morrow has no personal knowledge of the Defendant's actions on the night of the crash. Even if State's Attorney Morrow was called as a witness in a wrongful death case, Attorney Koroll has failed to plead how that fact would create a conflict of interest which would cause a special prosecutor to be appointed.

Conclusion

Petitioner bears the burden of alleging specific facts to warrant the appointment of a special prosecutor. While the appointment of a special prosecutor is "within the discretion of the trial court, disqualification of a State's Attorney requires more than mere suspicion or speculation." McCall at 205. In this matter Attorney Koroll has pled nothing but mere suspicion and speculation without any basis in law or fact. The Supplemental Motion is unverified and is not well founded. The Supplemental Motion fails, in that even if the factual allegations are taken as true, the Court would not have a legal basis to find that a conflict of interest exists which makes State's Attorney Morrow an interested party to the prosecution of the Defendant. As a result, the People of the State of Illinois request that the Court, after reviewing the Supplemental Motion and the documents filed in response find that the Petitioner has not pled sufficient facts to warrant a hearing and DENY the Motion to Appoint Special Prosecutor.

In the event that the Court deems it necessary to conduct a hearing in this matter, the People would ask the Court to continue the hearing to allow the State's Attorney of Ogle County to obtain counsel for representation to conduct said hearing.

Respectfully submitted,


Eric Morrow

Ogle County State's Attorney

Eric D. Morrow
Ogle County State's Attorney
106 S. 5th Street
Suite 110
Oregon, Illinois 61061
Phone: (815)732-1170
Fax: (815)732-6607

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
OGLE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Plaintiff,)
)
 vs.)
)
 MARC W. MONGAN,)
)
 Defendant,)

CASE NO. 2016 CV 52
2016 CV 53

NOTICE

TO: Attorney Cynthia Koroll
Koroll Litigation Group, LTD
2929 N. Main Street
Rockford, IL 61103
FAX: 779-423-2332

Attorney David Tess
1090 North Seventh Street
Rochelle, IL 61068
Email: dtess@tesscrullaw.com

YOU ARE HEREBY NOTIFIED that on the 13th day of June, 2017, at 9:00 o'clock A.M., or as soon thereafter as Counsel may be heard, I shall appear before her/his Honor Judge Redington in Room 202; or in her/his absence, before any other Judge that may be presiding in said Court Room, in the Ogle County Judicial Center, 106 S. 5th Street, Oregon, Illinois and then and there:

Hearing on People's Motion to Dismiss Supplemental Motion to Appoint Special Prosecutor or in the Alternative for Judgment on the Pleading Pursuant to 55 ILCS 5/3-9008(a-10)

DATED: May 31, 2017

Ogle County State's Attorney

By



Eric D. Morrow

State of Illinois)
) ss
County of Ogle)

The undersigned, being first duly sworn on oath deposes and says that she served the within notice upon the within named

Attorney Cynthia Koroll
Koroll Litigation Group, LTD
2929 N. Main Street
Rockford, IL 61103
FAX: 779-423-2332

Attorney David Tess
1090 North Seventh Street
Rochelle, IL 61068
Email: dtess@tesscrullaw.com

by placing a true and correct copy of said notice in an envelope, each addressed as is shown above.

That she sealed said envelopes and placed sufficient U.S. Postage on each; that she deposited said envelopes so sealed and stamped in the United States mail at Oregon, Illinois, at or about the hour of 4:30 o'clock P.M. on the 31st day of May, 2017.

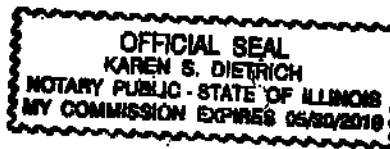
A copy was also sent via Facsimile to Attorney Cynthia Koroll at the following fax number: 779-423-2332 on the 31st day of May, 2017.

A copy was sent via email to Attorney David Tess at the following email address: dtess@tesscrullaw.com on May 31, 2017.

Christina K. Eyed

Subscribed and sworn to before me
this 31st day of May, 2017.

Karen S. Dietrich
Notary Public





ERIC D. MORROW
STATE'S ATTORNEY OF OGLE COUNTY
106 S. 3rd St., Suite 110
OREGON, ILLINOIS 61061

Sender's E-mail: oglesa@oglecounty.org
www.oglecounty.org

Telephone: (815) 732-1170
Fax: (815) 732-6607

FAX TRANSMISSION COVER

TO: Attorney Cynthia Koroll

FAX#: 1-779-423-2332

FROM: Christy - Ogle County State's Attorney's Office

Number of pages (including this page): 35

Date & Time transmitted: 5/31 3:22pm

RE: POS vs. Marc W. Mongan - Ogle Co. Case 16 CV 52 & 16 CV 53

COMMENTS:

This facsimile transmission is intended and restricted for the above addressee only. It may contain confidential and privileged information, the disclosure of which may be regulated by federal and state law. In the event a person other than the intended recipient receives or comes into possession of this transmission (whether in the transmission phase or after printing of the paper copy of the transmission), said unintended recipient or possessor is hereby notified that dissemination, distribution, or duplication of the transmission or its contents is prohibited. If you should receive this transmission in error, please call us immediately (collect), and return the entire transmission by U.S. Mail. Do not read the contents of the transmission. Thank you.